

AGENDA

FOR THE REGULAR MEETING OF THE CITY OF BELEN PLANNING AND ZONING COMMISSION, STATE OF NEW MEXICO, COUNTY OF VALENCIA TO BE HELD ON MONDAY THE 27th OF NOVEMBER 2017 AT 6:00 PM IN THE COUNCIL CHAMBERS AT CITY HALL, 100 SOUTH MAIN STREET, BELEN, NEW MEXICO 87002.

ALL P & Z COMMISSION MEETINGS ARE VIDEO AND AUDIO RECORDED.

A COPY OF THE AGENDA MAY BE OBTAINED FROM THE OFFICE OF THE CITY OF BELEN PLANNING & ZONING DEPARTMENT.

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGEANCE

4. APPROVAL OF AGENDA

5. APPROVAL OF MINUTES

Minutes of November 13, 2017-not completed yet

6. PUBLIC COMMENT 3 MINUTE PRESENTATIONS: If more time is needed for presentation, please ask to be scheduled on the next agenda.

7. PUBLIC HEARING WITH POSSIBLE ACTION

- a. **REQUEST FOR A VARIANCE ON FRONT & SIDE SETBACKS** for the purpose of placing a carport along the east side and the front (north) side of the property: **Frank Jaramillo.**

LEGAL DESCRIPTION: Township 5 North, Range 1 East, Section 13, Map 100 Lot 6, Bennie Sanchez Addition, AKA 1613 Ben San Ave., Belen NM

- b. **REQUEST FOR CONDITIONAL USE** for the purpose of placing a convenience collection/recycling center at 501 Bernard Ave.: J.N.E. Property LLC., Charles Montoya. **LEGAL DESCRIPTION:** Township 5 North, Range 2 East, Section 18, Map 100, Tract A, Land of SWPG LLC, containing 8.36 ac.

c.

8. DISCUSSION

Landscaping Ordinance

Fence Ordinance Review-revisions have not been completed yet

9. INFORMATIONAL ITEMS

- a. Communication from the Commission and Staff

10. ADJOURNMENT

RESPECTFULLY SUBMITTED

/s/

Lisa R Miller

Planning & Zoning Administrator

cc: Mayor & City Council
News Bulletin

Belen Chamber of Commerce
Belen Recreation Center

Belen Public Library
Belen City Hall

**CITY OF BELEN
100 SOUTH MAIN STREET
BELEN, NM 87002
(505) 966-2730**

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN to the public and all parties of interest that the Belen Planning and Zoning Commission will conduct a public hearing to consider a **REQUEST FOR A VARIANCE ON FRONT & SIDE SETBACKS** for the purpose of placing a carport along the east side and the front (north) side of the property: **Frank Jaramillo.**

LEGAL DESCRIPTION: ~~Township 5 North, Range 1 East, Section 13, Map 100~~
Lot 6, Bennie Sanchez Addition, AKA 1613 Ben San Ave., Belen NM 87002.

You are further notified that this public hearing will be held on **Monday, November 27, 2012 at 6:30 PM.**, in the Council Chambers at City Hall, 100 South Main Street, Belen, New Mexico 87002. Any person having objections or wishing to be heard should make such protest to the Belen Planning & Zoning Commission at the above stated date and time or comments can be mailed to the Belen Planning and Zoning Department at 100 South Main Street, Belen, NM 87002.

LEGAL NOTICE PUBLISHED: November 9 & 23, 2012



1614

BEN SANAVE

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VARIANCE REQUEST

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MICHAEL DONAVE

CITY OF BELEN, NEW MEXICO
APPLICATION FOR ZONING VARIANCE

Section 17.04.040 City of Belen Municipal code: "Variance" means a relaxation of the terms of this title where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this title would result in unnecessary and undue hardship. As used in this title, a variance may be authorized only for area, height, dimension, distance, setback, off-street parking, and off street loading requirements

Applicants Name: FRANK JARAMILLO Phone: 505-573-1673
Address: 1613 BEN SAN
Authorized Agents Name: _____ Phone: _____
Address: _____

Address of Property: 1613 BEN SAN Belen N.Mex
Block and Lot: 6 Addition: Bennis Sanchez
Tract Number: _____ Map: 100
Total acreage in Tract: 8,544.15 sq ft.
Number of Dwellings: 1 Density/Acre: _____
Zoning of Property: R-1 Present Use: Residential
TSN, RIE, S13

APPLICATION REQUIREMENTS

The following material must be provided by applicant.

- Filing fee payment of \$150.00 Double application fees will be charged for uses commenced without approval under the Municipal Code and/or the Zoning Ordinance and for which a citation (violation) may have been issued.
- Letter of transmittal, state why a literal enforcement of Section 17.04.040 City of Belen Municipal Code would result in unnecessary and undue hardship.
- Specify type of variance requested, height, setback, lot coverage, parking requirement.
- Affidavit of ownership.
- Survey plat or scaled drawing of property describing property line, lot dimensions, easements, structures and accessory structures where variance is requested. Indicate dimensions of all structure heights and size of signs.

The Applicant must also do the following:

- Post and maintain one or more signs on the premises involved at least fifteen days prior Public Hearing Date and remove such signs within five days after Public Hearing Date.

NOTE: Failure to do so is grounds for deferral or denial of this application.

Accompanying this application are the above listed requirements for the proposed Zoning Variance. I have examined and am familiar with the zoning regulations of the present zone and the requested variance. I understand that the City of Belen will not assume any liability for a possible lack of understanding on my part.

Frank Jaramillo 10-27-17
Signature of Applicant Date

THIS APPLICATION REQUIRES A PUBLIC HEARING BY THE PLANNING & ZONING COMMISSION

Planning and Zoning Commission Meeting Date: 11-27-17 Approved/Disapproved: _____

FEE PAID: \$ 150.00 RECEIPT NO.: 16.602298 DATE: 10-27-17

OWNERS AFFIDAVIT

STATE OF NEW MEXICO)
COUNTY OF VALENCIA) SS
CITY OF BELEN)

We,
I FRANK JARAMILLO
(Please PRINT name in full)

being duly sworn, depose and say that (I am) (we are) the owner(s) of property located at
1613 Ben Sam Ave., for which (I am) (we are)
(Address)

requesting a (Zone Change, Special Use Permit, Variance, Conditional Use, Annexation, Appeal)
Variance through the City of Belen. Furthermore, (I) (we) hereby appoint
_____ of _____ as our agent to act in our
behalf on all matters pertaining to the processing of this application.

Frank Jaramillo
Signed

1613 Ben Sam Ave
Address

Belen, NM 87002

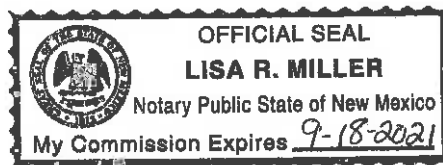
505-573-1673
Phone

Subscribed and sworn to before me this 27 day of October, 2017.

Lisa R Miller
Notary

My Commission Expires:

9-18-2021



HARDSHIP

During Hailstorm on Sept 30
both my Truck & CAR got
damaged. In the winter time
SNOW Accumulates on the North
Side of driveway my wife
fell and broke her knee.

Requesting variance for
CARport on side of house and
Front of driveway up to sidewalk



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BEN SANAVE

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MICHAEL DONAVE

1613

1609

WARRANTY DEED (Joint Tenants)

14304

Tony Baldonado, a single man

_____, for consideration paid, grant
to Frank J. Jaramillo

whose address is 1613 Ben San Avenue, Belen, New Mexico 87002

and Evelyn S. Jaramillo, his wife, as joint tenants, with full rights of survivorship

whose address is _____

as joint tenants the following described real estate in Valencia County, New Mexico:

Lot Numbered Six (6) of the BENNIE SANCHEZ ADDITION, to the City of Belen, as the same is shown and designated on the Plat thereof, filed in the office of the County Clerk of Valencia County, New Mexico.

EXCEPTING THEREFROM is the North 0.5' of said Lot which was Deeded out to the City of Belen, said deed recorded in Book 248, Page 1172-A, records of Valencia County, New Mexico.

Subject to taxes for 1975 and subsequent years, Existing Easements and rights of way, Reservations and Patent Reservations of record, and the Liens of the Middle Rio Grande Conservancy District, payable annually with the State and County Ad Valorem taxes.

with warranty covenants.

WITNESS our hand S and seal S this 17th day of November, 1975

Tony Baldonado (Seal) _____ (Seal)

Tony Baldonado

(Seal)

(Seal)

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO

COUNTY OF VALENCIA

ss.

The foregoing instrument was acknowledged before me this 17th day of November, 1975,
by Tony Baldonado, a single man

(Name or Names of Person or Persons Acknowledging)

My commission expires:

(Seal) June 25, 1978

Frank E. Caplan
Notary Public

FOR RECORDER'S USE ONLY

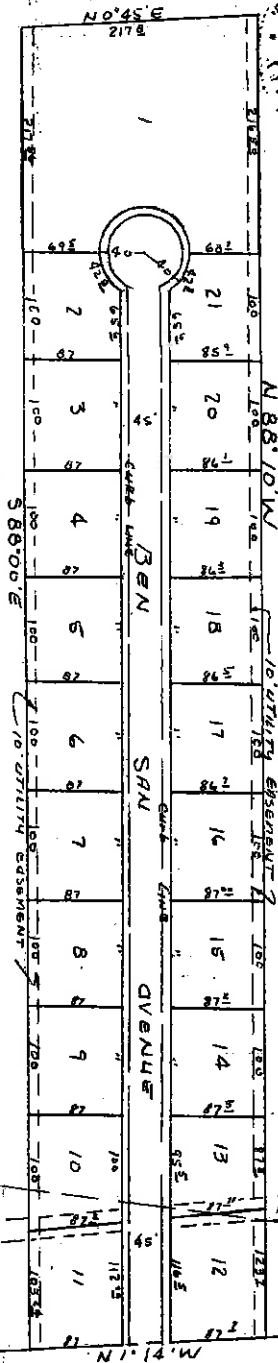
STATE OF NEW MEXICO

ACKNOWLEDGMENT FOR CORPORATION

STATE OF NEW MEXICO

APR 26 1965
 7:58 AM

BENNIE SANCHEZ ADDITION VALLENCIA COUNTY NEW MEXICO



DESCRIPTION:

Beginning at a point which is the North West corner of the lot described and from thence the NW corner section 13 T. 5 N, R. 15 E, N.M.P.M. bears N 0° 45' W, 217.50 feet, S 0° 45' W, 122.00 feet, S 88° 00' E, 122.00 feet, N 88° 10' W, 122.00 feet to the point of beginning and containing 6.25 acres.

DEDICATION:

Knew all men by these presents that Joe V. Sanchez and Ursula G. Sanchez, his wife, being the sole owners and proprietors of the land hereon described have caused to be made a Sub-division on said land and shall be known as -

Bennie Sanchez Addition

that said subdivision is in accordance with the desires of the owners and the streets and easements are dedicated for public use as such.

Joe V. Sanchez

Ursula G. Sanchez

W. M. Reg. #3145

F. G. Huffman, a Registered Land Surveyor in the State of New Mexico hereby certifies that this plat was made by me and is true and correct to the best of my knowledge and belief.

F. G. Huffman
 N. M. Reg. #3145

THE foregoing instrument was acknowledged before me this day of April 1965, by Joe V. Sanchez and Ursula G. Sanchez, his wife, being duly sworn.

Accepted:
 Board of Commissioners
 City of Belen, N.M.

W. M. Reg. #3145

I hereby certify that this instrument was filed for record on the day of April 1965, at 10 o'clock

City Clerk, Valencia County, N.M.

SUBDIVISION PLAT	
OF Tract 1st Map No. M.R.C.D.	2546
SCALE 1"=100'	APPROVED BY
DATE APRIL 14, 1965	F. G. Huffman
LAND SURVEYOR	REVIEWED
Ph. 844-7085	Belen, N.M.
Sec. 13, T. 5 N, R. 15 E, N.M.P.M.	DRAWING NUMBER

**JERAH R
CORDOVA**
MAYOR
LEONA VIGIL
CITY MANAGER



CITY OF BELEN
100 SOUTH MAIN STREET
BELEN, NEW MEXICO 87002
(505) 966-2730 • FAX (505) 864-8408
www.belen-nm.gov

WAYNE GALLEGOS
CITY COUNCILOR
DAVID CARTER
CITY COUNCILOR
DARLEEN ARAGON
MAYOR PRO-TEM
FRANK ORTEGA
CITY COUNCILOR

CASE REPORT

November 21, 2017

VARIANCE REQUEST

Location: 1613 Ben San Ave., Belen NM 87002

SITE DATA

Existing Use: Residential

Lot Size: .20 acres (8,544 Sq. Ft.)

Direction	Zoning	Existing Land Use
North	R-1	Single Family Residential
East	R-1	Single Family Residential
South	R-1	Single Family Residential
West	R-1	Single Family Residential

*See attached zone map.

REQUEST

The applicant is requesting a Variance on the side and front setbacks.

Variance Requirements:

1. Type of Variance requested and why it is a hardship.
2. Affidavit of ownership
3. Location of Variance request.
4. Survey Plat

STAFF FINDINGS

1. The surrounding area consists of single-family residential lots.
2. The area is zoned R-1

3. Setbacks for the R-1 area require a side setback of five feet and a front setback of 20 feet. (See attached R-1 Regulations)
4. This is not an enclosed structure. It consists of open sides, back and front with a roof covering the area.

BEATRICELN

MESITALN

BEN'S ANAVE

R-1⁹

VARIANCE REQUEST

MICHAELDONAVE

WREINKENAVE

NMESARD

NFIFTEENTHST



11 21 2017 14 40



11 21 2017 14 40



11 21 2017 14 40



11 21 2017 14 40

Chapter 17.16 - R-1 SINGLE-FAMILY RESIDENTIAL**Sections:****17.16.010 - Intent.**

The purpose of this zone is to allow conventional, on-site constructed, single-family dwelling units and those uses which are both compatible with and convenient to the residents of such a neighborhood. Density shall be limited to one (1) dwelling unit per lot. Land uses such as churches, schools, and parks are allowed.

(Ord. No. 2015-14, 11-16-2015)

17.16.020 - Accessory uses.

- A. Buildings or structures customarily incident to uses in this zone district.
- B. Storage of a boat, camper, trailer, or other recreational vehicle as long as such boat, camper, trailer, or vehicle is not used as a dwelling or additional living quarters and is not connected to utilities. The boat, camper, trailer or vehicle must be stored in a rear or side yard.
- C. Home occupations are permitted only to the extent authorized by the definitions in this title.
- D. Fences or walls not exceeding six (6) feet in height in those areas within the rear or side setbacks of a lot, and not exceeding four (4) feet in height for a non-solid fence in those areas within the front setback of a lot and not exceeding three (3) feet in height for a wall or solid fence in those areas within the front setback of a lot.

(Ord. No. 2015-14, 11-16-2015)

17.16.030 - Supplementary regulations.

- A. Area. Each lot shall have a minimum ground area of six thousand (6,000) square feet and a minimum width of sixty (60) feet.
- B. Setback.
 - 1. Front, twenty (20) feet;
 - 2. Rear, fifteen (15) feet:
 - a. Accessory buildings may be located anywhere within the rear setback area provided that the accessory building is less than two hundred (200) square feet in floor area and there is a separation of no less than ten (10) feet between the accessory building and any other building on the lot or adjacent lots. Such building shall comply with chapter 15.32 drainage regulations of the Municipal Code and maintain any and all public utility easements.
 - b. An accessory building used as a garage for off-street parking with access to an

alley shall maintain a setback of at least five (5) feet from the alley;

3. Side, five (5) feet on each side.

C. Height. No building or structure shall exceed thirty-five (35) feet except as otherwise provided in this title.

D. Off-Street Parking. Provided in chapter 17.56 of this title.

(Ord. No. 2015-14, 11-16-2015)

City of Belen
100 South Main Street
Belen, NM 87002
(505) 864-8221

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN to the public and all parties of interest that the Belen Planning and Zoning Commission will conduct a public hearing to hear a **REQUEST FOR CONDITIONAL USE for the purpose of placing a convenience collection/recycling center at 501 Bernard Ave.: J.N.E. Property LLC., Charles Montoya.**

LEGAL DESCRIPTION: Township 5 North, Range 2 East, Section 18, Map 100, Tract A, Land of SWPG LLC, containing 8.36 ac.

You are further notified that this public hearing will be held on **Monday, November 27, 2017 at 6:00 P.M.**, in the Council Chambers at City Hall, 100 South Main Street, Belen, New Mexico 87002. Any person having objections or wishing to be heard should make such protest to the Commission at the above stated date and time or write comments to the Planning and Zoning Commission, 100 South Main Street, Belen, New Mexico 87002.

Property owners within 100 feet excluding public right-of-way of said tract desiring to comment may write to the City of Belen Planning & Zoning Department at 100 South Main Street, Belen nm 87002

LEGAL NOTICE PUBLISHED: November 9 & 23, 2017



**CITY OF BELEN, NEW MEXICO
APPLICATION FOR CONDITIONAL USE**

REGULAR

SIX MONTHS

NOTE: The following conditional uses are limited to six months duration, at the end of which time such use must be reviewed and a new permit granted in order for it to be continued:

- Amusement Parks, Carnival, Circus. Conditional use in any A-R, C-1 or M-C zone.
- Dwelling, Temporary Watchman or Caretaker. Conditional use in all zones.
- Offices, Temporary (Real Estate Sales, Etc. Conditional use in all zones.
- Flea Markets. Conditional use in C-1 and M-C zones only, subject to district regulations and any supplementary regulations or special condition imposed by the Planning & Zoning Commission.

Applicants Name: J.N.E. Property, LLC Phone: 505-681-9409
Address: 951 Curfman Rd Los Lunas, NM 87031
Authorized Agents Name: _____ Phone: _____
Address: _____

Address of Property: 501 Bernard Ave. Belen, NM 87002
Block and Lot: _____ Addition: _____
Tract Number: _____ Map: _____
Total acreage in Tract: _____
Number of Dwellings: _____ Density/Acre: _____
Zoning of Property: _____ Present Use: _____

APPLICATION REQUIREMENTS

The following material must be provided by applicant.



Filing fee payment of \$150.00

Letter of transmittal, state nature of request, include name of applicant and address where conditional use is requested.

- Affidavit of ownership
- Scaled drawing of property indicating location of structures, on-site parking and points of access to public streets

The Applicant must also do the following:

- Post and maintain one or more signs on the premises involved at least fifteen days prior Public Hearing Date and remove such signs within five days after Public Hearing Date.

NOTE: Failure to do so is grounds for deferral or denial of this application.

Accompanying this application are the above listed requirements for the proposed Conditional Use. I have examined and am familiar with the zoning regulations of the present zone and the requested Conditional Use. I understand that the City of Belen will not assume any liability for a possible lack of understanding on my part.

Chela Martinez
Signature of Applicant

10/26/17
Date

THIS APPLICATION REQUIRES A PUBLIC HEARING BY THE PLANNING & ZONING COMMISSION

Planning and Zoning Commission Meeting Date: 11-27-17 Approved/Disapproved: _____
FEE PAID: \$150 RECEIPT NO.: 14.60 7870 DATE: 10-26-17

OWNERS AFFIDAVIT

STATE OF NEW MEXICO)
COUNTY OF VALENCIA) SS
CITY OF BELEN)

We,
I J.N.E. Property, LLC
(Please PRINT name in full)

being duly sworn, depose and say that (I am) (we are) the owner(s) of property located at
501 Bernard Ave, for which (I am) (we are)
(Address)

requesting a (Zone Change, Special Use Permit, Variance, Conditional Use, Annexation, Appeal, Replat, Lot Split, Etc.)

Conditional Use through the City of Belen. Furthermore, (I) (we) hereby appoint
_____ of _____ as our agent to act in our
behalf on all matters pertaining to the processing of this application.

Signed

951 Curfman Rd.
Address

Las Lunas, NM 87031

505-681-9409
Phone

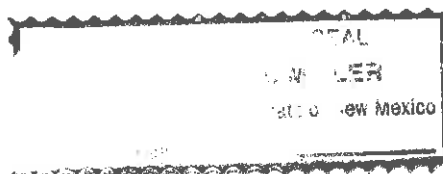


Subscribed and sworn to before me this 26 day of October, 20 17.

Lisa R Miller
Notary

My Commission Expires:

9-18-2021



City of Belen
Planning and Zoning
100 S. Main St.
Belen, NM 87002

Re: Conditional Use Permit

To whom it may concern,

I am writing you to request a conditional use permit for the property located at 501 Bernard Ave., Belen, NM 87002. The purpose of this permit will be to allow the property, currently occupied by AC Disposal Services, Inc., to be utilized as a collection/recycling center. They have previously been approved by NM Environmental Department and are permitted. An operations plan is in place and will be presented as needed for clarification, should you need any. Additionally, all necessary requirements will be abided by.

If you have any questions, please feel free to contact me.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles Montoya", with a long, sweeping horizontal line extending to the right.

Charles Montoya
J.N.E. Property, LLC.

Collection Center Registration



AC Disposal Collection Center (Valencia County)

has met the criteria of the New Mexico Solid Waste Rules, 20.9.3.27 NMAC,
and is registered as a Collection Center
Certificate No. 0132536CC

Issued by

State of New Mexico Environment Department

Issued: September 14, 2017

Expires: September 14, 2022,


Auralee Ashley-Martx, Chief
Solid Waste Bureau



AC DISPOSAL
SOLID WASTE COLLECTION CENTER
501 BERNARD AVE
BELEN, NM 87002

SITE OPERATING PLAN

1. EMERGENCY PROCEDURES AND CONTACTS

In the event of an emergency, in **Attachment A** will take precedence over the Site Operating Plan. **Attachment A** contains contact information and procedures to be applied in the case of an actual emergency, or for emergency training purposes. Safety of all personnel and the public is paramount. Any real or perceived threat to human health or safety, or to the environment, may justify the implementation of the Contingency Plan.

2. AC DISPOSAL OPERATING PLAN

The Site Operating Plan (SOP) contains detailed information about how AC Disposal conducts operations at the solid waste collection center, but is not intended to be a comprehensive operating manual. This SOP presents general guidance for facility management and personnel to operate the facility in a manner consistent with New Mexico Environment Department (NMED) rules, the approved design, NMED's Collection Center Registration requirements, and the Belen Commission's rules to protect human health and the environment and prevent nuisances.

2.1. Purpose

The AC Disposal waste collection center is meant to offer a means of household trash disposal for Belen residents as a substitute or supplement to commercial trash pickup. AC Disposal is accessible to all residents of the County. A charge per truckload is assessed, based on volume of waste, beginning at \$5. A fee for unsecured loads will also be assessed upon arrival at the collection center and will be added to the load price. This cost is intended to offset the cost of disposal at a permitted engineered landfill.

2.2. Schedule

AC Disposal is scheduled to operate Six days per week (Monday through Saturday), with the facility gates opened to the public at 8:00am, and closed to the public by 5:00pm. AC Disposal will also close during inclement weather including high winds a speed exceeding 18 mph. AC Disposal is closed on holidays. Closures Due to High winds, Off-schedule holidays, Training days, and other planned closures will be advertised at the site and through at least one additional form of media: a local newspaper or the Company webpage preferred.

2.3. Layout

A site location map showing local land use and zoning is included in **Attachment B**. A drawing of the AC Disposal Collection Center site layout is also included in **Attachment B**.

The site layout drawing includes the locations of signs, fencing, gates, structures, equipment, transport containers, traffic flow patterns, the tipping area, white goods, scrap metal collection area, and approximate locations of emergency equipment (first aid kits, fire extinguishers, contact information). The site is fully enclosed by mixed wire fencing, with two lockable gates large enough for transport trucks and trailers to enter and exit.

3. FACILITY INSPECTION AND MAINTENANCE

In order to maintain a professional and healthy working environment, certain maintenance and housekeeping tasks must be performed at the site. Recordkeeping of these activities is not required, but it is the responsibility of the site operator to ensure that the facility is maintained appropriately and to alert owner if major improvements or repairs are necessary. Facility Maintenance; frequency of operations to be interpreted as “at least” (weekly, monthly, daily).

OPERATORS GENERAL DUTIES

1. Organize equipment room monthly
2. Clean around roll-offs daily
3. Clean tipping pad daily
4. Magnet-sweep tipping area daily
5. Magnet-sweep travel areas two times per week
6. Check fire extinguishers weekly
7. Inspect perimeter for odor, litter, or fencing/trespass problems daily
8. Clean up dumped or blown litter along roadside weekly
9. Inspect all signs and posted documents for date/accuracy monthly
10. Remove debris personal items from cab of backhoe daily
11. Clean interior and exterior (including windows) of backhoe weekly

4. WASTE ACCEPTANCE AND SCREENING

4.1. Acceptable Wastes

Vehicles are screened for unallowable waste upon entry to the site, prior to payment for disposal. The volume of the load is estimated (as a function of “truckloads”) and an appropriate fee is assessed by the gate attendant. All vehicles transporting MSW or recyclables must have a secured cover or enclosed Container, per 20.9.2.8 NMAC. A three-part receipt (aka “ticket”) is completed by the gate attendant and signed by the operator of the vehicle. This receipt includes the date and time, license plate number and description of the

vehicle, and amount paid. A space for notes is also provided, which may be used for a description of extra wastes, tarp fees paid, or other relevant information. One copy of the three-part receipt is given to the customer. The second part is submitted with payment to the finance office. The third part is kept as an archival record with the AC Disposal. Photocopy of a typical customer load ticket are included as **Attachment C**.

Municipal Solid Waste

Municipal Solid Waste (MSW), which is generated from household and normal home-business scale industrial/ commercial activities, is accepted at AC Disposal. Approximately 180 Cubic yards per day is expected to be accepted at the AC Disposal Collection Center.

Construction & Demolition Debris

Construction & Demolition (C&D) debris is defined as material generated from construction, remodeling, repair and/or demolition of structures which include, but are not limited to building materials, asphalt roofing shingles, wall board, mattresses, furniture, carpeting and underlay. C&D debris excludes asbestos and other special wastes. C&D loads will be inspected by trained personnel that have asbestos awareness training.

AC Disposal may accept construction or demolition debris from any commercial construction firm. One pickup truck load of demolition debris may be accepted from a homeowner if it is determined that the waste was generated at the household, and the nature, type, volume and density of the waste are acceptable to the Collection center operator. Asbestos-containing materials will not be accepted, regardless of origin, quantity, or type. All C&D debris will be disposed of at the landfill.

White Goods & Metals

White Goods and Metals which include, but are not limited to, large appliances and unwanted metal fixtures, including but not limited to stoves, freezers, washing machines, clothes dryers, dishwashers, air conditioners, wire, cable and fencing generated from domestic and commercial sources. Removal and recycling of these materials will be the responsibility of a licensed and permitted subcontractor. Freon containing appliances will not be accepted. Both scrap metals and white goods will be placed in a 40 yard roll-off, Scrap metals and appliances will be removed by a subcontracted party when the metal collection is sufficient enough to justify a trip by the subcontractor to remove the material.

Removal of scrap metal or white goods, or parts of these, by any person or company other than the AC Disposal subcontractor, is prohibited as scavenging. Items found to be attractive to scavenging may be hidden within the roll-off, crushed or mechanically commingled with heavier items, or removed to another appropriate location to prevent a nuisance.

Recyclable Materials (Single stream)

Materials that can be recycled (other than white goods/scrap metals) which include, but are not limited to, paper, cardboard and plastic products that are not mixed with any other solid waste. Separate containers will be provided for each recyclable item.

4.2. Discretionary Acceptance Wastes**Tires**

Steel-belted and radial tires used on automobiles or other vehicles, which are no longer wanted may be accepted for disposal at AC Disposal in small quantities. A "small quantity" determination will be made at the discretion of AC Disposal, but will not exceed three passenger car/truck tires in a full pickup truck load of MSW; will not exceed 9 passenger car/truck tires in a full roll-off container of MSW; or other limit imposed by NMED or the disposal facility. Tires will not be stockpiled at the site for future disposal. All tires will be disposed of at landfill.

Clean Wood & Brush

Wood, lumber, bark, woodchips, brush, edging, slash, sawdust, and wood shavings will be accepted at collection center. Green waste will be stockpiled in a small area then mulched daily. Restrictions may be imposed on the diameter and length of branches and brush to protect personnel and equipment.

Dense or Granular Material

Only small quantities of very heavy or dense materials, such as brick, concrete, countertops, or other such materials may be accepted each truckload. A very small quantity of sand, gravel, or other abrasive material may be accepted each truckload. A "small quantity" determination will be made at the discretion of AC Disposal. Restrictions may be imposed on the amount or type of waste regardless of the amount or type of waste already accepted in the present load. All Material will be disposed of at landfill.

Hot Loads

All loads will be inspected for Hot Loads. Hot Loads are solid wastes that are either smoldering, on fire, notably warm or hot to the touch, or have the potential to ignite into flames when delivered to the facility. In the event that a hot load is received it will be extinguished prior to disposal. Burn barrels showing evidence of burned MSW will not be accepted for disposal, drivers will be given verbal or written information concerning illegal waste burning and associated health hazards. Fire extinguishers are available at the tipping area and gatehouse, and the site has functioning water well to aid in fire control.

4.3. Prohibited Wastes

Hazardous and Special Waste

Any special waste, hazardous waste, other materials that are prohibited by Federal and State law, or prohibited by the receiving solid waste facility are not accepted for disposal at AC Disposal. AC Disposal does not operate a household hazardous waste collection program.

Waste in Excess of Permitted Quantities

This classification limits AC Disposal to accepting not more than 240 cubic yards of MSW per day, averaged monthly. Because waste is accepted by the truckload, the cubic yardage is calculated by the amount of 40 yd. Roll-off Container being disposed of at the landfill where we will get a disposal ticket with weight.

Hazardous, special, excess, or otherwise unapproved waste, if discovered at the site, will be addressed on a case-by-case basis following the protocols outlined in the Contingency Plan (Attachment A). A record of the discovery and remedy of hazardous, special, or excess waste will be maintained in the site's operating record.

5. MATERIALS HANDLING

5.1. Unloading

AC Disposal personnel are trained to direct customer vehicles for disposal at the tipping area. The assigned Operator is responsible for monitoring and directing all tipping at the Facility. Waste is unloaded directly from customer vehicles to a Roll-off Container. In addition, the Collection Center is equipped with concrete curbs at the edge of the tipping wall that further control and limit the areas of disposal. The use of leak-proof storage will be used for MSW. No commercial haulers or solid waste contractors are permitted to dispose of waste at AC Disposal Collection Center.

1. The Operator monitors and directs all unloading of waste and proper segregation of unallowable or non-disposal (scrap metal) items.
2. At no time, will an AC Disposal Employee drive (forward or backward) any customer vehicles or trailers to the tipping area. All customers must back their own vehicles and trailers.
3. Smoking is strictly prohibited in the tipping area.

5.2. Loading and Compaction

The assigned tipping area Operator may direct types and volumes of waste placed into the Roll-offs to provide an optimally efficient and safe loading pattern. Customers may be asked

to wait for others to unload first, at the discretion of the tipping area Operator. Customers will not be instructed to deposit waste on the ground or any location other than in an approved container (such as the Roll-off). The amount of MSW Expected to be removed from the Collection Center is about 80 Cubic yards per day. Recyclable Material Disposed will be as needed in 8yrd front load containers.

The wastes may be periodically compacted using a backhoe boom or other appropriate mechanical device to create a stable, efficient load within the trailer. Care will be taken to avoid damaging the Roll-off with the equipment or with the wastes being compacted. Compaction will not be conducted with customers in or near the tipping area.

5.3. Transportation

Safety of the driver and of the public is paramount. If these criteria cannot be met, the load shall not be transported, and other arrangements will be made for disposal. Waste Roll-offs will be removed from the site for disposal as soon as is practical after the vehicle is filled by weight or by volume, or sooner if necessary to prevent a safety hazard. There will be an onsite Mechanic as well as extra trucks to remove full Roll-offs in case of an emergency. Due to landfill operating hours and the large volume in each roll-off. Daily removal is not always practical.

1. The load will be tarped or otherwise covered to prevent blowing litter and other safety hazards prior to leaving the site.
2. All loads shall comply with DOT load restrictions. The driver will make the final recommendation to the site Operator on the estimated maximum capacity of all truck loads. It will be the responsibility of the site foreman to ensure trucks are not overloaded and that the recommendations as prescribed by the driver are considered.
3. To ensure the safety of the driver, the driver shall inform the site foreman or supervisor of the expected route to be taken. Any deviations from the expected route will be transmitted to the site foreman or supervisor. The driver will indicate departure and return times in a log kept at the site or in the vehicle. Any situations or circumstances that may have caused a delay or mechanical issues with the vehicle or trailer shall also be part of his return log.
4. In the event of mechanical failure, safety concern, or other on-the-road delay in waste delivery, the driver shall notify the foreman or supervisor as soon as reasonably possible. If a message is left for either foreman or supervisor, the message shall include the time of the message, the location of the truck, safety status of the driver, nature of the problem, and what action has been taken as of the time of the message.

5.4. Landfill Disposal

All MSW, C&D debris, tires and granular material collected at AC Disposal Collection Center will be disposed of in an engineered landfill permitted to accept MSW. The location of disposal (choice of landfills) will be at the discretion of the foreman or supervisor, and may take into consideration travel distance, timing, and landfill operating hours, route safety, or other factors.

At the landfill, drivers will:

1. Obey all rules of the landfill;
2. Collect and keep a record of disposal (weigh ticket) to be turned in upon return to Collection Center
3. Wear high-visibility and appropriate protective safety gear (vest/shirt, glasses, hardhat, boots, etc.) when outside of the vehicle;
4. Ensure the roll-off container is emptied before leaving the site.

Problems or complaints shall be addressed jointly by the driver and supervisor or foreman.

The two landfills currently utilized by AC Disposal are listed below:

1. Valencia Regional Landfill
Waste Management of New Mexico
1600 Highway 6 NW
Los Lunas, NM 87031
(505) 917-6232
2. Cerro Colorado Landfill
City of Albuquerque
18000 Cerro Colorado SW
Albuquerque, NM 87121
(505) 761-8300

The two recycling disposal sites utilized by AC Disposal are listed below:

1. Town Recycling LLC
4420 Broadway Blvd SE
Albuquerque NM, 87105
(505)835-5540

2. Albuquerque Metals Recycling
3339 2nd ST SW
Albuquerque NM, 87105
(505)877-6110

6. TIPPING FEES AND CASH HANDLING

6.1. Tipping Fees

Collection of the tipping fees shall be strictly enforced. Any exceptions to the pricing table must be approved by the AC Disposal Owner or by his or her Designee. Failure to enforce this policy by any employee of the AC Disposal Collection center will result in appropriate disciplinary action, up to and including legal action and/or termination.

6.2. Cash Handling and Deposits

All money received as tipping fees to include checks and coins, shall be counted and recorded at least four times throughout operating hours. All daily records shall utilize the Cash Fees Worksheet found in **Appendix C**. All last counts shall include:

1. Total funds to be deposited;
2. Total number of customer vehicles;
3. Total number of roll-off loads of trash collected. The prior day trash should have been accounted for in the previous day's total. A record of roll-off swap times may be recorded in lieu of volumes;
4. A calculated average of fees charged per vehicle.

Deposits shall be made daily to the finance office. A copy of the daily cash handling & deposit report shall be submitted to the AC Disposal owner.

7. RECORDKEEPING AND REPORTING

Records of daily vehicle counts, financial records, disposal receipts, equipment logs, site shutdowns, and personnel hours worked are maintained onsite at the AC Disposal Office. AC Disposal also maintains on-site copies of the operating records for the current month and the previous twelve months. Disposal receipts are maintained for a minimum of three years at an on-site location. Other records, including older operating and financial records will be maintained at an AC Disposal Main Office. Modifications to this Operating Plan shall be noted on the page designated at the beginning of this document.

The AC Disposal is a collection center, and is subject to the recordkeeping and reporting procedures required for solid waste facilities by 20.9.5.16 NMAC.

8. TRAINING SCHEDULE

Whenever possible, a State-certified Transfer Station Operator will be scheduled to work at Collection Center each day of operation. New employees are trained in basic operations, waste screening, communication, and site safety & emergency procedures the first day on the job. The Risk Assessment Program briefing is provided weekly to all AC Disposal employees and emergency and contingency training is refreshed on an annual basis (at minimum). The facility may shut down approximately once per quarter to allow each employee to attend additional training.

9. Signs

AC Disposal Collection Center will have signs posted at the front gate entrance with hours of operation, and emergency contact numbers, and signs including all loads must be tarp, secured as well as accepted waste, and prohibited waste. There will also be signs notifying public about no hot loads accepted and no scavenging allowed.

ATTACHMENT A
Contingency Plan

ATTACHMENT B

- **Site Location Map**
- **Area Zoning Map**
- **Site Layout Drawing**

ATTACHMENT C

- **Example Customer Load Ticket**
 - **Cash Fees Worksheet**

**JERAH R
CORDOVA**
MAYOR
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CITY MANAGER



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CITY COUNCILOR
DARLEEN ARAGON
MAYOR PRO-TEM
FRANK ORTEGA
CITY COUNCILOR

CASE REPORT

November 21, 2017

CONDITIONAL USE REQUEST

Location: 501 Bernard Ave., Belen NM 87002

SITE DATA

Existing Use: Manufacture/Commercial **Lot Size:** 8.36 acres

Direction	Zoning	Existing Land Use
North	R-2 & C-R	Multi Family Residential & Commercial/Residential
East	R-1A & A-R	Single Family Mixed & Agricultural/Residential
South	R-1A & A-R	Single Family Mixed & Agricultural/Residential
West	R-1A	Single Family Mixed

*See attached zone map.

REQUEST

The applicant is requesting a Conditional Use to place a convenience collection/recycling center at 501 Bernard Ave.

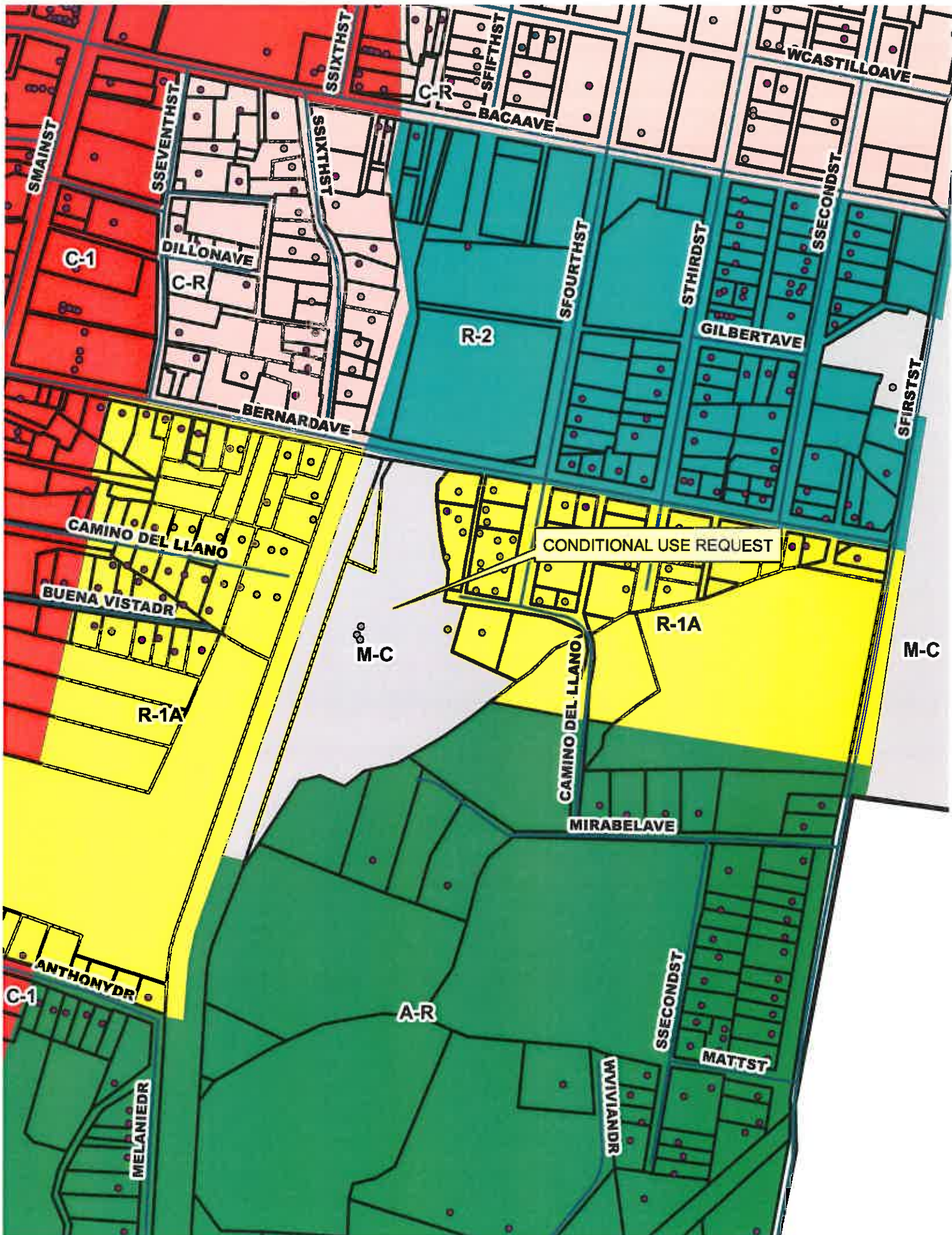
Conditional Use Requirements:

1. Type of Conditional Use and why.
2. Location of Conditional Use request.
3. Survey Plat
4. Time Period of Conditional Use request.

STAFF FINDINGS

1. The surrounding area primarily consists of Residential and Commercial areas.

2. The area is zoned M-C
3. The property is presently being used for AC Disposal vehicles, maintenance, office and metal fabrication.
4. Bernard is a Collector Rd (increased traffic volume) and has been constructed for that type of use.
5. A convenience collection/recycling center is allowable under the M-C zoning with a Conditional Use Permit.
6. There should not be any adverse affects on the surrounding area due to the fact that the collections are not kept on the premises. It is removed daily.

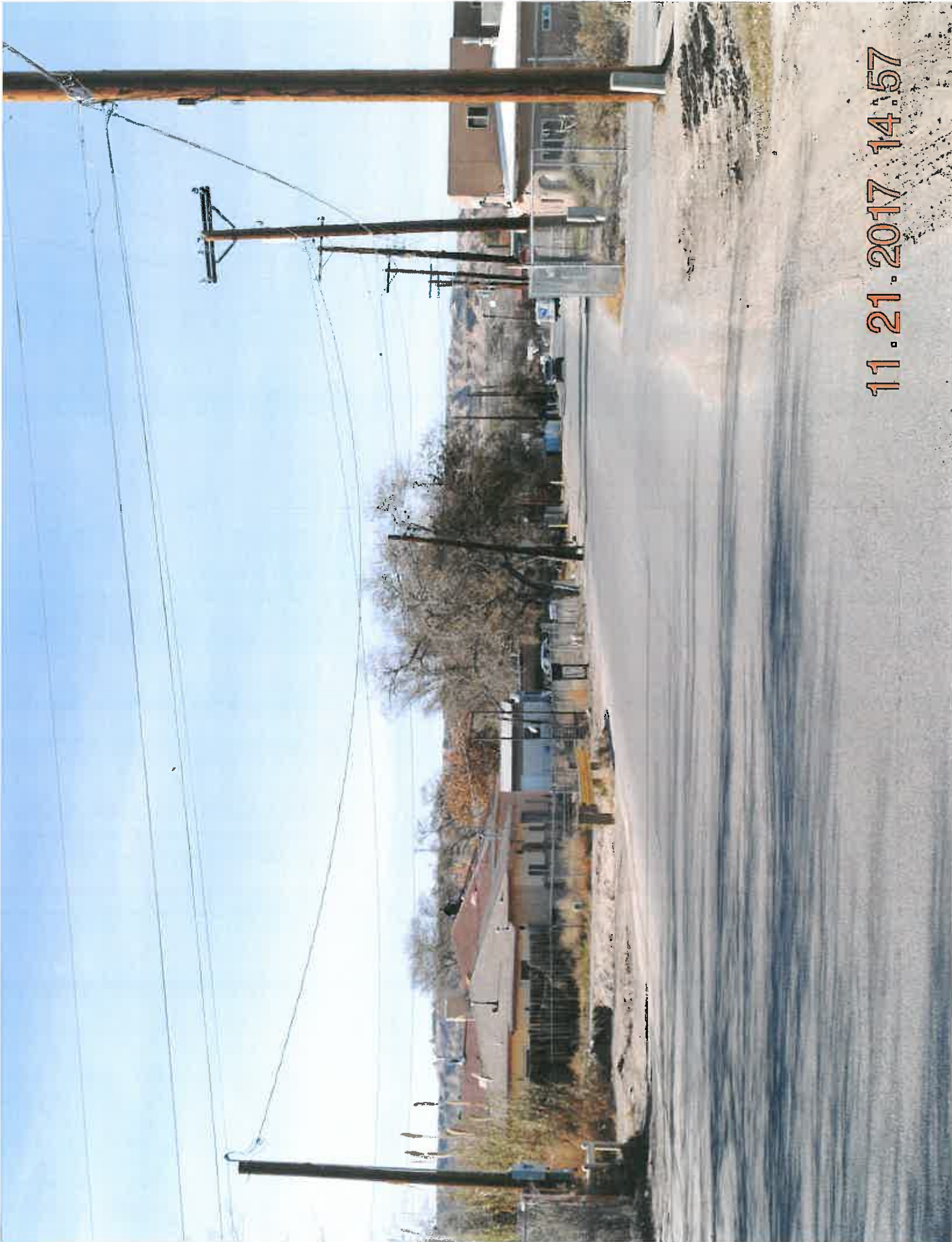




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Chapter 17.12 - A-R AGRICULTURAL/RESIDENTIAL

Sections:

17.12.010 - Intent.

The purpose of this zone is to provide for agricultural and related activities, and low density residential uses that are conducive to a rural atmosphere and do not attract large numbers of people. Residential density shall not exceed one (1) single-family dwelling unit per acre.

(Ord. No. 2015-14, 11-16-2015)

17.12.020 - Accessory uses.

- A. Buildings or structures customarily incident to uses allowed in this zone district.
- B. Stands for the display and sale of agricultural products.
- C. Storage of a boat, camper, trailer, or other recreational vehicle as long as such boat, camper, trailer, or vehicle is not used as a dwelling or additional living quarters and is not connected to utilities. The boat, camper, trailer, or vehicle must be stored on private property.
- D. Home occupations are permitted only to the extent authorized by the definitions in this title.
- E. Fences or walls not exceeding six (6) feet in height in those areas within the rear or side setbacks of a lot, and not exceeding four (4) feet in height for a non-solid fence in those areas within the front setback of a lot and not exceeding three (3) feet in height for a wall or solid fence in those areas within the front setback of a lot.

(Ord. No. 2015-14, 11-16-2015)

17.12.030 - Supplementary regulations.

- A. Height. No building or structure shall exceed thirty-five (35) feet except as otherwise provided in this title.
- B. Setback.
 - 1. Front, twenty (20) feet;
 - 2. Rear, fifteen (15) feet:
 - a. Accessory buildings may be located anywhere within the rear setback area provided that the accessory building is less than two hundred (200) square feet in floor area and there is a separation of no less than ten (10) feet between the accessory building and any other building on the lot or adjacent lots. Such building shall comply with chapter 15.32 drainage regulations of the Municipal Code and maintain any and all public utility easements.
 - b. An accessory building used as a garage for off-street parking with access to an alley shall maintain a setback of at least five (5) feet from the alley.
 - 3. Side, five (5) feet on each side.
- C. Off-Street Parking. Provided in chapter 17.56 of this title.
- D. Off-Street Loading. Provided in chapter 17.56 of this title.

(Ord. No. 2015-14, 11-16-2015)

Chapter 17.20 - R-1A SINGLE-FAMILY MIXED

Sections:

17.20.010 - Intent.

The purpose of this zone is to provide for a mixture of detached, single-family housing types. The dwelling units in this zone district may include mobilehomes, modular housing units, and conventionally constructed homes. Density shall be limited to one (1) dwelling unit per lot. Normal accessory uses are allowed.

(Ord. No. 2015-14, 11-16-2015)

17.20.020 - Accessory uses.

All accessory uses in this zone shall be the same as those listed in the R-1 zone district.

(Ord. No. 2015-14, 11-16-2015)

17.20.030 - Supplementary regulations.

All supplementary regulations in this zone shall be the same as those listed in the R-1 zone district.

(Ord. No. 2015-14, 11-16-2015)

Chapter 17.24 - R-2 MULTIFAMILY RESIDENTIAL**Sections:****17.24.010 - Intent.**

The purpose of this zone is to allow for a medium density residential district excluding uses which are not compatible with and convenient to the residents of such a district. Offices and certain nonresidential uses which are of particular convenience to the residents of this zone are allowed. Apartments, condominiums, and boarding houses are allowed in this zone.

(Ord. No. 2015-14, 11-16-2015)

17.24.020 - Accessory uses.

- A. Buildings or structures customarily incident to uses in this zone district.
- B. Home occupations are permitted only to the extent authorized by the definitions in this title.
- C. Fences or walls not exceeding six (6) feet in height in those areas within the rear or side setbacks of a lot, and not exceeding four (4) feet in height for a non-solid fence in those areas within the front setback of a lot and not exceeding three (3) feet in height for a wall or solid fence in those areas within the front setback of a lot.

(Ord. No. 2015-14, 11-16-2015)

17.24.030 - Supplementary regulations.

- A. Area. Each lot shall have a minimum ground area of seven thousand (7,000) square feet and a minimum width of seventy (70) feet.
- B. Floor area ratio, 1.0.
- C. Setback.
 - 1. Front, twenty (20) feet;
 - 2. Rear, fifteen (15) feet:
 - a. Accessory buildings may be located anywhere within the rear setback area provided that the accessory building is less than two hundred (200) square feet in floor area and there is a separation of no less than

ten (10) feet between the accessory building and any other building on the lot or adjacent lots. Such building shall comply with chapter 15.32 drainage regulations of the Municipal Code and maintain any and all public utility easements.

- b. An accessory building used as a garage for off-street parking with access to an alley shall maintain a setback of at least five (5) feet from the alley;

3. Side, five (5) feet on each side.

- D. Height. No building or structure shall exceed forty-five (45) feet except as otherwise provided in this title.
- E. Off-street parking. Provided in chapter 17.56 of this title.
- F. Off-street loading. Provided in chapter 17.56 of this title.
- G. Paved off-street parking is required for structures containing three (3) or more dwelling units, and shall be constructed using standard curbing and pavement design specifications subject to review and approval by the city engineer.
- H. Landscaping is required on all multifamily residential lots to the extent that it enhances the appearance of the development, alleviates drainage problems, and blends with the surrounding area. Existing trees should be preserved to the extent possible. A minimum of ten (10) percent of total square footage of the lot area shall be devoted to landscaping. Landscaping will consist of a combination of grass, shrubs, gravel and trees, developer will provide irrigation system if necessary.
- I. Area lighting shall be provided in the development for safety and security purposes. All street lights shall be designed and placed in accordance with the subdivision design standards of the city of Belen.
- J. In the event a development is being proposed next to an irrigation ditch, the developer shall construct a six-foot tall chain link fence or a fence of similar construction along the property line which borders said irrigation ditch. Irrigation ditch shall be defined as a lateral or canal and shall not be meant to include a bar ditch or small ditch for individual use.
- K. A storm drainage management plan is required for all multifamily residential developments. It shall be in compliance with city drainage regulations and shall be subject to review and approval by the city engineer.
- L. Trash bins shall be provided in the amount the sanitation department feels necessary, and shall be three-sided with block or wood, and shall be six (6) feet in height. The placement of trash bin shall be approved by sanitation department for proper pickup.

(Ord. No. 2015-14, 11-16-2015)

17.24.040 - Fees.

- A. For consideration of a variance application, one hundred fifty dollars (\$150.00);
- B. For consideration of a conditional use permit, one hundred fifty dollars (\$150.00);
- C. For consideration of zone changes and amendments to this chapter, two hundred fifty dollars (\$250.00);
- D. For consideration of an appeal to the city council under the provisions of this chapter, one hundred dollars (\$100.00);
- E. For consideration of mobile/manufactured homes on a permanent foundation, an installation permit fee of two hundred fifty dollars (\$250.00).
- F. For consideration of mobilehome park rental spaces for mobilehomes, recreational vehicles and camping trailers, an installation permit fee of twenty-five dollars (\$25.00).

(Ord. No. 2015-14, 11-16-2015)

Chapter 17.28 - C-R COMMERCIAL/ RESIDENTIAL

Sections:

17.28.010 - Intent.

The purpose of this zone is to permit a limited mixture of residential and retail commercial activities. This zone establishes and preserves areas for those commercial facilities which are essentially useful in close proximity to residential areas, while minimizing the undesirable impact of such commercial uses on the neighborhoods which they service. Any commercial establishment, other than a home occupation, located in this zone shall contain a total floor area no greater than four thousand (4,000) square feet.

(Ord. No. 2015-14, 11-16-2015)

17.28.020 - Accessory uses.

All accessory uses in this zone shall be the same as those listed in the R-2 zone district.

(Ord. No. 2015-14, 11-16-2015)

17.28.030 - Supplementary regulations.

All supplementary regulations in this zone shall be the same as those listed in the R-2 zone district, except that signs indicating a commercial or business establishment may not exceed forty (40) square feet per sign with a minimum width of two (2) feet.

(Ord. No. 2015-14, 11-16-2015)



Queen Creek Zoning Ordinance



Original adoption January 6, 1999, updated April 19, 2017, Ordinance NOS 528-17 through 535-17

ARTICLE 5 – SITE IMPROVEMENT STANDARDS

1. The applicant, property owner, and / or subsequent or successor owners and their agents shall be responsible for maintenance of landscaping on the property on a continuing basis for the life of the development as specified in this Section. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not be limited to, mowing, edging, pruning, fertilizing, watering, weeding, and other activities common to the maintenance of landscaping.
2. Landscaped areas shall be kept free of trash, litter, weeds and other materials or plants not a part of the landscaping.
3. All required plant material shall be maintained in a healthy, growing condition as is appropriate for the season. Plant materials which exhibit evidence of insect pests, disease, and / or damage shall be appropriately treated, and dead plants promptly removed and replaced within the next planting season after installation. If replacement is necessary, all plants and other non-living landscape materials shall be equal in size, density and appearance as originally required at the time of the approval of the development order or development permit.

5.4 Open Space

- A. All new development in the Town of Queen Creek shall provide Open Space as provided herein and designed as required in Chapter 6 of the Town of Queen Creek Subdivision Ordinance.
- B. *Community Trails System.* The applicant shall provide a community open space network and / or trails system, which system shall be integrated with the *Parks Trails and Open Space Master Plan*, which is hereby incorporated by this reference as if set forth in its entirety herein. The trails shall be maintained by the applicant.
- C. *Required Open Space.* Required open space shall be reserved for any development in the zoning districts types forth in Column "A" of Table 5.4-1, below, based upon the percentage of net acres in

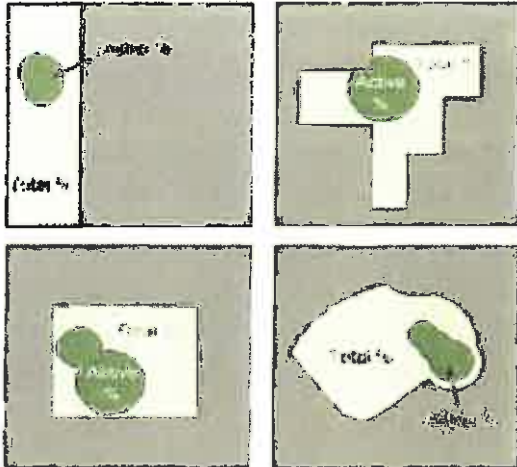
the proposed development corresponding the zoning district as set forth in Columns "B" and "C" in Table 5.4-1 hereto.

Table 5.4-1 Required Open Space

(A) Zoning District	(B) Required Open Space	(C) Active Open Space
Rural Residential (A-1, R1-190, R1-145, R1-108)	0%	0%
Estate Residential (R1-54 R1-43)	0%	0%
Suburban Type-A (R1-35)	5%	10%
Suburban Type-B (R1-18, R1-15, R1-12)	7.5%	15%
Urban Residential (R1-9, R1-8, R1-7, R1-6, R1-5, R1-4, R1-3, MDR, and HDR)	20%	30%
Commercial (B1, C-1, C-2, C-3, MU, AT and TC)	15%	N/A
Industrial (EMP-A and EMP-B)	10%	N/A

1. *Active Open Space.* Active Open Space shall be provided as referred in Table 5.4-1 may include, but shall not be limited to: recreational activities as golf courses, sport courts / fields, picnic areas, playgrounds and trails as defined in Section 1.14. Additional active amenities and reduction in active open space may be approved by the Planning Administrator.
2. *Passive Open Space.* Open Space not defined as Active maybe considered as Passive Open Space as defined in Article 1, Section 1.14 of this Ordinance.

ARTICLE 5 – SITE IMPROVEMENT STANDARDS



D. **Open Space Designation.** Open space shall not be further than the following distances from any lot or, if the proposed development does not involve a subdivision, any primary building, and the entrance allowing people, bikes, or equestrians to enter into the open space or view the open space area:

1. One-sixth ($1/6^{\text{th}}$) of a mile or eight-hundred and eighty feet (880') from passive open space; and,
2. One-fourth ($1/4^{\text{th}}$) of a mile or one-thousand, three-hundred and twenty feet (1,320') from active open space.

E. **Open Space Maintenance.** Land designated as open space shall be maintained as open space and may not be separately sold, subdivided, or developed except as provided below.

1. Any areas reserved as open space shall be indicated on the sketch plan and preliminary site plan or subdivision plat. An Open Space Provision and Maintenance Plan shall be submitted as a part of the application for development approval including the project phasing schedule. This plan shall designate and indicate the boundaries of all open space areas required by this Ordinance. The plan shall:

- a. Designate areas to be reserved as open space. The specific design of open space areas shall be sensitive to the physical and design characteristics of the site;

- b. Designate the type of open space which will be provided; and,

- c. Specify the manner in which the open space shall be perpetuated, maintained, and administered.

2. The types of open space which may be provided to satisfy the requirements of this Ordinance, together with the maintenance required for each type, are as follows:

- a. Passive open space shall be maintained in a healthy, neat, clean, and weed-free condition. Waterways and landscaped areas lying between public right-of-way lines and the property, unless such streets, waterways, or landscaped areas are expressly designated to be maintained by a designated governmental authority shall be free-flowing and devoid of debris;

- b. No specific maintenance is required for agricultural uses;

- c. Active open space areas shall be accessible to all residents of the development. Maintenance is limited to insuring that there exist no hazards, nuisances, or unhealthy conditions; and,

- d. Greenways are linear green belts linking residential areas with other open-space areas. These greenways may contain bicycle paths, footpaths, and bridle paths. Connecting greenways between residences and recreational areas are encouraged. Maintenance is limited to a minimum removal and avoidance of hazards, nuisances, or unhealthy conditions.

3. All designated open space shall be of suitable size, location, dimension, topography and general character and shall have proper road and / or pedestrian access, as may be appropriate, to be usable open space.

- a. The minimum dimension for usable open space shall be thirty feet (30') and the minimum area shall be one-thousand (1,000) square feet.

ARTICLE 5 – SITE IMPROVEMENT STANDARDS

- b. Retention areas or detention basins which are required as part of this Ordinance or the Subdivision Ordinance shall not qualify as an open space area unless fifty percent (50%) or more of the active and usable area is above the twenty-five (25) year storm and is designed for multiple area(s) conforms to the requirements of subsection (1) and (2) below. This standard shall not apply to non-residential developments which shall be permitted to calculate the retention and detention area as part of the required open space area.
- 1) Retention or detention areas shall be an integral part of the subdivision either as a greenbelt, or as a single basin. Retention areas shall be improved so as to be useable and accessible. Site and architectural amenities, such as armadas or benches shall be provided. "Tot lots", playground equipment, and sport courts equipment shall be elevated above the bottom of the basin for uninterrupted use.
 - 2) Retention or detention areas shall be given a natural character and shall be constructed of natural materials. Terracing, berming and contouring is required in order to naturalize and enhance the aesthetics of the basin. Basin slopes shall not exceed a three to one (3:1) slope.
- c. Open space areas shall be landscaped and the majority of the area shall be visible from at least one (1) adjoining arterial, collector, or local street.
- F. *Preservation of Open Space.* Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved, and maintained as determined by the Town Council by any of the following mechanisms or combinations thereof:
1. Dedication of open space to the Town, an appropriate public agency, or a non-profit entity if there is a public or non-profit agency willing to accept the dedication and financially capable of maintaining such open space. The Town may not accept the dedication of open space unless such dedication is part of a linked open space or trails system included in the Queen Creek Open Space and Trails Plan. Dedication of Sonoqui and Queen Creek washes may be required along with rezoning and / or plat approval if the Town demonstrates that impacts of the development on stormwater discharge, public recreation, or water quality are proportionate to the amount of wash area being dedicated. The applicant for plat approval or rezoning may consent to said dedication, pursuant to Section 3.4 of this Ordinance or as a condition of development approval, and said consent shall be deemed to waive any and all constitutional challenges to said dedication requirement;
 2. Common ownership of the open space by a homeowner's or neighborhood association which assumes full responsibility for its maintenance except for lands dedicated to the Town. The restrictive covenants shall provide that, in the event that any private owner of open space fails to maintain same according to the standards of this Ordinance, the Town may, following reasonable notice and demand that deficiency of maintenance be corrected, enter the open space to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the open space and shall constitute a lien upon the property and buildable lots of the subdivision or development site; and,
 3. Payment of a fee in lieu of dedication of open space, if:
 - a. The Town Council establishes an Open Space Acquisition Trust Fund for the receipt of fees and other financial commitments for the acquisition and development of public open space.
 - b. The Town Council adopts an ordinance establishing a fee in lieu or dedication of land for open space. The ordinance shall include the following:
 - 1) The fee amount per residential dwelling unit or equivalent residential dwelling unit;

ARTICLE 5 – SITE IMPROVEMENT STANDARDS

- 2) Time of determination of the fee;
- 3) Time of payment of the fee;
- 4) Form of payment of the fee;
- 5) Restrictions on use of the fees collected;
- 6) Time limit on expenditure of fees;
- 7) Placement of fees in the Open Space Acquisition Trust Fund;
- 8) Maintenance of financial records;
- 9) Allocation of interest on trust fund accounts; and,
- 10) Refund procedures.

G. *Open Space Requirements.* As a part of any application for development approval such as rezoning, site plan, and subdivision and in conjunction with the required landscape plans in Section 5.3, the applicant shall submit an Open Space Provision and Maintenance Plan meeting the requirement of subsections A through C herein.

5.5 Lighting

A. *Purpose.* These provisions are intended to control the use of outdoor artificial illuminating devices emitting rays into the night sky which have a detrimental effect on the rural atmosphere, astronomical observations, and which create glare. It is the intention of this Ordinance to encourage good lighting practices such that lighting systems are designed to conserve energy and money, to minimize glare, to protect the use and enjoyment of surrounding property, and to increasing nighttime safety, utility, security, and productivity. The provisions of this Section are authorized by Section 49-1106, A.R.S., which provides that the provisions of Section 49-1101 through Section 49-1106, A.R.S., are cumulative and supplemental and shall not apply within any county, city or town which by ordinance or resolution has adopted provisions restricting light pollution which are equal to or more stringent than the provisions of this Section.

B. *Conformance with Applicable Codes.*

1. All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this section and the building code of the Town of Queen Creek.
2. Where any provisions of the Arizona Revised Statutes, or any Federal law, or any companion Ordinance conflicts with the requirements of this outdoor light control provision, the most restrictive shall govern.
3. The provisions of this section are not intended to prevent the use of any material or method of installation not specifically prescribed by this Ordinance. In considering any variance from the provisions of this Ordinance, the Board of Adjustment shall take into consideration any state of the art technology which is consistent with the intent of the Ordinance as new lighting technology develops which is useful in reducing light above the horizontal plane.

C. *Shielding and Filtration.*

1. All non-exempt outdoor lighting fixtures shall be limited to the types of fixtures specified in Table 5.5-1 of this Ordinance and shall have shielding and filtration as required by Table 5.5-1 of this Ordinance.
2. Light source locations shall be chosen to minimize the hazards of glare. The ratio of spacing to mounting height shall not exceed a four to one (4:1) ratio.
3. Poles and standards. All poles or standards used to support outdoor lighting fixtures shall be anodized or otherwise coated to minimize glare from the light source.

D. *Illumination.* In order to minimize glare and hazardous conditions, illumination levels shall not exceed the levels set forth in Table 5.5-2 for any use permitted by this Ordinance. The maximum illumination shall be measured at grade at the property line of the site in accordance with subsection J of this Section.

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Table 5.5-1 Shielding Requirement

Location / Situation	Height (ft)	Shielding (ft)
Residential Zoning Districts		
Building Exterior	50	5.0
Front, side, or rear yard (at property line)	10	1.0
Non-residential zoning districts		
Adjoining another non-residential zoning district along major arterial	20	2.0
Adjoining residential zoning district along major arterial	10	1.0
Adjoining another non-residential zoning district along minor arterial or collector street	6	0.6
Adjoining another non-residential zoning district along local street	4	0.4
Adjoining another non-residential zoning district along property line	10	0.9
Adjoining residential zoning district along property line	2	0.2
Outdoor Events		
Adjoining non-residential zoning district	1,000	100
Adjoining or within one-thousand feet (1,000') of residential zoning district	100	10

Notes:

- [1] This is the preferred light source to minimize undesirable light emission into the night sky affecting astronomical observations.
- [2] Metal halide lighting used primarily for display purposes shall not be used for security lighting after 11:00 p.m. Metal halide lamps shall be installed only in enclosed luminaires.
- [3] Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within, do not require shielding. Dark backgrounds with light lettering or symbols are preferred, to minimize detrimental effects.
- [4] For the purposes of this Code, quartz lamps shall not be considered an incandescent light source.
- [5] Warm white and natural lamps are preferred to minimize detrimental effects.

- [6] Metal halide fixture lamp types shall be filtered. "Filtered" means any outdoor light fixture which has a glass, acrylic or translucent enclosure of the light source (quartz glass does not meet this requirement).

Table 5.5-2 Illumination Standards

Lighting Type	Shielding	Filtered
Low Pressure Sodium [1]	Partially	None
High Pressure Sodium	Fully	None
Metal Halide	Fully [2, 6]	Yes
Fluorescent	Partially [3, 5]	Yes
Quartz [4]	Partially	None
Incandescent, Greater than 150W	Partially	None
Incandescent, 150W or Less	No	None
Fossil Fuel	No	None
Glass Tubes filled with Neon, Argon, Krypton	No	None

E. Control of Glare.

1. Any luminaire with a lamp or lamps rated at a total of more than 1,800 lumens and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall not emit any direct light above a horizontal plane through the lowest direct light emitting part of the luminaire.
2. Any luminaire with a lamp or lamps rated at a total of more than 1,800 lumens and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height not exceeding the value $3 + (D/3)$, where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire shall not exceed twenty-five feet (25').
3. **Exceptions.**
 - a. Any luminaire with a lamp or lamps rated at a total of 1,800 lumens or less and all flood or spot luminaires with a lamp or lamps rated at 900 lumens or less may be used without restriction to light distribution or mounting height except that if any spot or flood

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luminaire rated 900 lumens or less is aimed, directed or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be re-directed or its light output controlled as necessary to eliminate such conditions.

- b. Luminaires used for public roadway illumination may be installed at a maximum height of twenty-five feet (25') and may be positioned at that height up to the edge of any bordering property.
- c. All temporary emergency lighting needed by the Police, the Fire Departments or other emergency services as well as all vehicular luminaires shall be exempt from the requirements of this Ordinance.

F. Prohibitions.

- 1. *Mercury Vapor Fixtures and Lamps.* The installation of any mercury vapor fixture or lamp for use as outdoor lighting is prohibited.
- 2. *Certain Other Fixtures and Lamps.* The installation of any low pressure sodium, high pressure sodium, metal halide, fluorescent, quartz or incandescent outdoor lighting fixture or lamp that does not comply with the shielding requirements of Table 5.5-1 and the illumination standards of Table 5.5-2 is prohibited.
- 3. *Laser Source Light.* The use of laser source light or any similar high-intensity light for outdoor advertising, when projected above the horizontal, is prohibited.
- 4. *Searchlights.* The operation of searchlights for advertising purposes is prohibited between the hours of 11:00 p.m. and sunrise.
- 5. *Recreational Facilities.* No outdoor recreational facility, public or private, shall be illuminated by non-conforming means after 11:00 p.m., unless

otherwise permitted by the Town Council pursuant to a conditional use permit, except to conclude specific recreational or sporting event or any other activity conducted at a ball park, outdoor amphitheater, arena, or similar facility in progress prior to 11:00 p.m. All recreational outdoor lighting shall comply with height restrictions as specified in the building codes. Outdoor lighting for open-air arenas primarily used for rodeo and roping activities, shall be permitted to a maximum height of thirty feet (30'), provided shielding and filtration requirements are met.

- 6. *Outdoor Building or Landscaping Illumination.* The unshielded outdoor illumination of any building, landscaping, signing or other purpose is prohibited, except with incandescent fixtures of 150 Watts or less, or low pressure sodium fixtures.

G. *Exceptions.* The following types of light fixtures shall be exempt from the provisions of this Section:

- 1. *Non-Conforming Fixtures.* All outdoor light fixtures installed prior to January 1, 1985, those equipped with a permanent automatic shut-off device may remain unchanged, except that the subject light fixtures shall not be operated between the hours of 11:00 p.m. and sunrise.
- 2. *Fossil Fuel Light.* Light which is produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels.
- 3. *Low Intensity Fixtures.* Any outdoor lighting fixture which has a maximum candle power or less than one-thousand (1,000) candelas is exempt from these provisions, if equipped with an automatic device which shuts off the fixture between the hours of 11:00 p.m. and sunrise.
- H. *Recreational Facilities.* Any light source permitted by this Ordinance may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to football fields, soccer fields, baseball fields, softball fields, tennis courts, auto race-tracks, horse race-tracks or show

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arenas, consistent with the illumination standards specified in Table 5.5-2 herein, provided all of the following conditions are met:

1. All fixtures used for event lighting shall be fully shielded, or shall be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light and glare.
 2. All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 11:00 p.m.; except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.
 3. The height of such lighting shall be a maximum of eighty feet (80').
- I. **Outdoor Display Lots.** Any light source permitted by this Ordinance may be used for lighting of outdoor display lots such as, but not limited to, automobile sales or rental, recreational vehicle sales or building material sales, provided all of the following conditions are met:
1. All fixtures used for display lighting shall be fully shielded, or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light and glare.
 2. Display lot lighting shall be turned off within thirty (30) minutes after the closing of the business. The full illumination of the lot may be permitted after 11:00 p.m., pursuant to a Temporary Use Permit (see Section 3.6). Any lighting used after shall be used as security lighting.
- J. **Residential Neighborhoods.** Adequate lighting for residential neighborhoods may be provided for all outdoor amenities areas used at night (i.e. parks, trails, fields, open space areas, sport courts, etc). Lighting sources shall be appropriately shielded from adjacent residential uses to minimize any negative impacts. The following additional standards shall apply:
- a. All outdoor amenity area lighting within 100 feet of a residential property line shall not exceed a maximum height of fifteen feet (15');
 - b. In all other amenity areas lighting shall not exceed a maximum height of twenty five feet (25');
 - c. All outdoor amenity area lighting shall be setback from all property lines by a minimum distance of fifteen feet (15');
 - d. **Submittal Requirements.** A Lighting Plan shall be submitted as part of the Site Plan or Preliminary Plat application which details the location and specifications of all proposed lighting. An ISO foot-candle diagram shall also be provided to indicate the level and extent of proposed lighting.
- K. **Measurement.**
1. **Metering Equipment.** Lighting levels are to be measured in foot-candles with a direct-reading, portable light meter. The meter typically has a cosine-corrected sensor with multiple scales and shall read within an accuracy of plus or minus five percent (5%). It shall have been tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within one (1) year of its use.
 2. **Method of Measurement.** The meter sensor shall be mounted not more than six inches (6") above ground level in a horizontal position. Readings are taken by qualified personnel only after the cell has been exposed long enough to provide a constant reading. Measurements are made after dark with the light sources in question on, then with the same sources off. The difference between the two (2) readings shall be compared to the maximum permitted illumination and property line at ground level. This procedure eliminates the effects of moonlight and other ambient light sources. Where light patterns overlap, their total intensity shall be the sum of their individual intensities.